THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 14592 of 2006

Oral order:

The petitioner is working with the respondents-BSNL as Senior Accountant. The petitioner states that after formation of BSNL, BSNL framed new recruitment rules for Junior Accounts Officer vide letter dated 31.08.2001. In terms of the said recruitment rules, the posts of Junior Accounts Officer are to be filled in the ratio of 50:40:10 i.e., 50% by way of direct recruitment, 40% by way of promotion of employees of BSNL through internal competitive examination and 10% by way of promotion of Senior Accountants of BSNL through exclusive internal competitive examination.

The petitioner states that he being fully eligible and qualified for promotion to the post of Junior Accounts Officer under 10% quota, appeared for the internal examination held on 20.01.2006 and 21.01.2006. He states that as against the required 45% marks he got 47% marks in aggregate, but secured only 30 marks in Paper-II as against the required 40% marks.

The petitioner states that earlier when the respondents-BSNL conducted internal examination for promotion to the posts of Junior Accounts Officer under the 40% quota, they vide letter dated 12.10.2004, granted 10 grace marks to the employees who appeared for the internal examination under the said quota, and contends that if the respondents-BSNL give the said 10 grace marks to him, who appeared for the internal examination under the 10% quota, he would also pass in Paper-II and become eligible for promotion to the post of Junior Accounts Officer, but the action of the respondents-BSNL in granting 10 grace marks to the employees who appeared for the internal examination for promotion to the posts of Junior Accounts Officer under the 40% quota, and not extending the said benefit to the employees who appeared for the internal examination for promotion to the posts of Junior Accounts Officer under the 10% quota, amounts to discrimination and violates the provisions Article 14 of the Constitution of India.

Hence, he filed the present writ petition, to declare the said action of the respondents-BSNL as being discriminatory, and

consequently direct the respondents to give 10 grace marks to the employees who appeared for the internal examination for promotion to the posts of Junior Accounts Officer under the 10% quota on par with the employees, who appeared for the internal examination for promotion to the said posts under the 40% quota.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-BSNL.

The contention of the petitioner that the action of the respondents-BSNL in not extending the benefit of 10 grace marks to the employees who appeared for the internal examination for promotion to the posts of Junior Accounts Officer under the 10% quota on par with employees who appeared for the internal examination for promotion to the said posts under the 40% quota, is discriminatory and violates the provisions of Article 14 of the Constitution of India, cannot be accepted, for it is the specific case of the respondents-BSNL, as is evident from the counter filed by them that the scheme, syllabus and pattern of internal examination for promotion to the posts of Junior Accounts Officer under the 10% quota, is entirely different from the DOT pattern, wherein no relaxation/grace marks are provided.

As per the scheme and syllabus of the internal examination for promotion to the posts of Junior Accounts Officer examination under the BSNL, as circulated vide letter dated 13.08.2002, the internal examination for promotion to the posts of Junior Accounts Officer under the 40% quota, is conducted in two parts – first part contains (Screening Test) objective type, and those who qualify in the said Screening Test, will be permitted to appear twice in the main examination, while in the case of internal examination for promotion to the posts of Junior Accounts Officer under the 10% quota, which is reserved for Senior Accountants, the examination is only subjective, which consists of four papers. From this it is clear that the scheme of examination for promotion to the posts of Junior Accounts Officer under the 40% quota and 10% quota is entirely different.

This apart, it is the case of the respondents-BSNL that on the representations made by the Staff Unions/Associations, for conducting one last examination under the old syllabus, a decision was taken by BSNL to relax BSNL Recruitment Rules for Junior Accounts Officer as a one-time measure, and to conduct Junior Accounts Officer examination as per old syllabus (DOT), and in that context, circular dated 12.10.2004 was issued *inter alia* stating that Part-I (Screening

Test) will consist of objective, and part-II will consist of subjective, and it was further provided that the candidates who got exemption in the earlier Part-I examination will be given 10 grace marks for exemption in one subject as the syllabus of Part-I and Part-II was the same.

Since the scheme and syllabus of internal examination for promotion to the posts of Junior Accounts Officer under the 40% quota and 10% quota is entirely different, no exception can be taken to the action of the respondents-BSNL in not giving 10 grace marks to the petitioner, and this Court in exercise of its jurisdiction under Article 226 of the Constitution of India, cannot direct the respondents-BSNL to award grace marks to the petitioner, and more so when awarding of grace marks is a matter for the respondents-BSNL, to consider, which in fact, is considered keeping in view various factors as appearing before them.

At this stage, the learned counsel for the petitioner submitted that the petitioner would make appropriate representation to the respondents-BSNL seeking grant of 10 grace marks or to exempt him from passing Paper-II. It is for the petitioner to do so, and if any such representation is made, the respondents-BSNL shall having regard to the facts and circumstances of the case, consider and dispose of the same, expeditiously.

With the observation as above, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Dated: 4th October, 2007
KSR